

Application Serial No. 10/603,752
Reply to Office Action dated September 17, 2004

REMARKS/ARGUMENTS

In the Office Action, the Examiner notes that claims 1-19 are pending in the application and currently stand rejected. On page 2 of the Office Action, the Examiner has outlined a rejection for claims 1, 15 and 16 under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,349,714 to Hurley et al. On page 3 of the Office Action, the Examiner has outlined a rejection for claims 2-6 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Hurley et al. in view of Simpson (U.S. Patent No. 1,716,329). Finally, on page 4 of the Office Action, the Examiner has outlined a rejection for claims 7-14, 17 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Hurley et al. in view of Simpson and further in view of Scofield (U.S. Patent No. 2,921,176).

In general, the present invention is directed to a substantially smooth cooktop including a gas burner assembly and a wire filament arranged adjacent to the gas burner assembly. The wire filament can be operated in a first mode to ignite a flow of gas emanating from the gas burner assembly and in a second mode wherein electrical energy is applied to the wire filament in the absence of a flow of gas to establish a second heat energy source. More specifically, in the second mode, the wire filament is activated when the gas burner assembly is deactivated to perform a low temperature cooking operation. These requirements are recited in each of the independent claims of the present application.

The main reference applied by the Examiner, i.e., Hurley et al., is directed to a cooking range including a plurality of burner units which establish a heat source through the ignition of a gas flow. Arranged about the gas burner assembly is a high temperature metal wire which is driven to radiant temperatures by the ignited flow of gas emanating from the gas burner. In addition, Hurley et al. suggests that the high temperature metal wire can be employed to ignite a gaseous flow present in a combustion chamber 32. That being said, there is simply no teaching in the Hurley et al. reference to supplying an electrical current to the wire so that the wire serves as a secondary heating source in the

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absence of a flow of gas. To the contrary, this patented arrangement would teach away from the present invention.

Certainly, in order for a reference to be proper under 35 U.S.C. § 102(b), the reference must teach, either expressly or inherently, each and every element set forth in the claim. This is not the case with Hurley et al. At no point in the Hurley et al. reference is there a single suggestion to supplying an electrical current to wire 44 for anything other than igniting the gas flow. Simply stated, wire 44 is employed solely as a re-radiant coil which is heated very quickly, e.g., within three seconds, typically in two seconds, to radiate heat to a cover member 52. To this end, it should be noted that the present invention can also employ a re-radiant coil 115 as well, but this does not encompass the claimed filament. With respect to the alternative § 103 rejection employing the Hurley et al. reference, the Applicant respectfully submits that the mere fact that the Hurley et al. reference could be modified to teach the particulars of claim 1 does not render the modification obvious unless the prior art suggests a desirability of the modification. As stated above, there is simply no teaching or suggestion either expressly or inherently, to modify the Hurley et al. reference to operate wire 44 as a secondary or low temperature heat source.

With respect to dependent claim 7 and independent claim 8, the Applicant initially questions the need to combine Hurley et al. with Scofield to teach a re-radiant coil given that coil 44 employed in Hurley et al. operates as a re-radiant coil. That being said, claims 7 and 8, in addition to adding a re-radiant coil, include all the limitations of claim 1. Specifically, claims 7 and 8 require a re-radiant coil in addition to a wire filament that is positioned adjacent to a gas burner which can be employed to ignite a flow of gas emanating from the gas burner and serve as a second heat energy source in the absence of the first heat energy source. There is simply no teaching in Hurley et al. and/or Scofield, when taken singly or in combination, to employing both a re-radiant coil and a secondary coil which is used to both ignite a gas flow or, in the absence of a flow of gas, be activated to perform a low temperature cooking operation. Thus, for at least the reasons set forth above, claims 7 and 8 should be allowable.

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As originally filed, method claim 15 essentially included all the limitations of claim 1 but for activating a portion of the wire filament to ignite the gas flow. Claim 15 has now been amended to include the limitations of claim 16 which recite this feature. Accordingly, for the reasons set forth above, claim 15 should now be in clear condition for allowance. Claim 13 was amended to rectify only a typographical error concerning claim dependency.

The Applicant further submits that many of the dependent claims further distinguish the present invention from the prior art. For instance, claims 2, 10 and 18 require that the wire filament be formed from a plurality of segments that are independently connected to the control unit, claims 3, 11 and 19 require that each of the plurality of segments be operated independently or concurrently, and claims 4 and 12 require that one of the plurality of segments be activated to ignite a gas flow. In order to teach these features, the Examiner combines Hurley et al. with Simpson. Simpson is directed to a cooking device that may be operated on gas or electricity. The Simpson arrangement specifically shields the electric heating elements from the gas flow and thus teaches away from operating in two modes in a manner analogous to that set forth in the present application. That is, the heating elements in Simpson could not be employed to both ignite a gas flow and perform a low temperature cooking operation.

Claims 5 and 13 require that the wire filament include four segments arranged about the gas burner assembly, while claims 6 and 14 require that each of the four segments operate on 40 watts of electrical energy. While the Examiner argues that it would have been obvious to a person of ordinary skill in the art to modify the wire coil of Hurley et al. to incorporate a plurality of segments or that operating the segments on 40 watts of electrical energy would simply be a matter of design optimization, the Applicant is unclear as to how the Examiner arrived at this conclusion. As Hurley et al. does not even teach to activate the wire filament as a low temperature heat source in the absence of a gas flow, the patent certainly does not suggest segmenting the wire filament and providing electrical energy to the various segments to establish a low heat setting, let alone the more particular features set forth in these dependent claims.

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Based on the above remarks and the amendments to the claims, it is respectfully submitted that the Applicant has particularly pointed out numerous deficiencies in the prior art such that the prior art of record fails to address many of the limitations set forth in the claims as originally filed. Therefore, for at least the reasons set forth above, reconsideration of the application, allowance of all the claims, and passage of the application to issue is respectfully requested. If the Examiner should have any additional concerns regarding the allowance of this application, he is cordially invited to contact the undersigned at the number provided below in order to further expedite the prosecution.

Respectfully submitted,



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